

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Tony Hammond, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Review of Calculation of Competitive
Products Assumed Income Tax, 2017

Docket No. T2018-1

ORDER APPROVING THE CALCULATION OF THE FY 2017
ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS

(Issued February 7, 2018)

I. INTRODUCTION

The Postal Service is required each year to calculate its assumed Federal income tax on competitive products income and to transfer the amount of the assumed Federal income tax from the Competitive Products Fund to the Postal Service Fund. 39 U.S.C. § 3634; 39 C.F.R. § 3060.40 *et seq.* The Postal Service filed its calculation of the assumed Federal income tax on competitive products income for Fiscal Year (FY) 2017.¹ For the reasons discussed below, the Commission approves the calculation in accordance with 39 C.F.R. § 3060.42.

¹ Notice of the United States Postal Service of Submission of the Calculation of the FY 2017 Assumed Federal Income Tax on Competitive Products, January 10, 2018 (Notice). The calculation of the FY 2017 assumed Federal income tax on competitive products is attached to the Notice. Notice, Attachment.

II. BACKGROUND

On January 10, 2018, in accordance with 39 C.F.R. § 3060.40(c), the Postal Service filed the Notice, along with a supporting attachment containing the Postal Service's calculation of the FY 2017 assumed Federal income tax on competitive products net income. The calculation details the FY 2017 competitive product revenue and expenses, the competitive products net income before tax, and the assumed Federal income tax on that income. *Id.*

For FY 2017, the Postal Service reports a net income from competitive products of \$7.152 billion.² After subtracting the \$1.698 billion required institutional cost contribution,³ the Postal Service reports a net income before tax of \$5.454 billion. Notice, Attachment. The Postal Service reports a taxable competitive products income of \$5.454 billion.⁴ Multiplying its taxable income by a tax rate of 35 percent, the Postal Service calculates a FY 2017 assumed Federal income tax on competitive products income of \$1.909 billion. *Id.*

On January 12, 2018, the Commission issued an order establishing this docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.⁵

² *Id.* For simplicity, this Order rounds all non-whole figures to three decimal places.

³ The required institutional cost contribution is, at a minimum, 5.5 percent of the Postal Service's total institutional costs. 39 C.F.R. § 3015.7(c). \$1.698 billion is 5.5 percent of the Postal Service's total FY 2017 institutional costs of \$30.872 billion as reported in Docket No. ACR2017, Library Reference USPS-FY17-1, December 29, 2017, Attachment at 3. The Commission's review of this figure (*i.e.*, \$1.698 billion) is under review by the Commission in Docket No. ACR2017. The Commission, however, accepts this figure as correct for purposes of approving the calculation of the FY 2017 assumed federal income tax on competitive products. Any revisions to this figure should not have a material impact on the amount of assumed tax transferred to the Postal Service Fund.

⁴ *Id.* The Postal Service reports its taxable income consistent with how it reports income for financial reporting purposes (*i.e.*, there are no permanent differences).

⁵ Order No. 4368, Notice and Ordering Concerning the Review of the Calculation of the Assumed Federal Income Tax on Competitive Products, January 12, 2018.

III. COMMENTS

The Public Representative filed comments on February 1, 2018.⁶ No other interested person filed comments. In preparing her comments, the Public Representative reviewed the Notice and its attachment, as well as Library Reference USPS-FY17-39 filed in Docket No. ACR2017. PR Comments at 3. Based on the Postal Service's calculation and the Postal Service's statement in Docket No. ACR2017 that it would transfer the assumed Federal income tax to the Postal Service Fund by January 16, 2018, she concludes that the calculation and supporting documentation are consistent with 39 U.S.C. § 3634 and 39 C.F.R. § 3060.40 *et seq.* *Id.*

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the attached calculation of the assumed Federal income tax on competitive products income for FY 2017, and the Public Representative's comments. For the reasons set forth below, the Commission approves the calculation of the assumed Federal income tax for FY 2017.

The Postal Accountability and Enhancement Act of 2006 requires that the Postal Service annually calculate the assumed Federal income tax on competitive products income.⁷ Section 3634(a)(1) of title 39 of the U.S. Code defines the term "assumed Federal income tax on competitive products income" as "the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year." Sections 3634(b) and (c) of title 39 require that the Postal Service calculate the assumed Federal income tax on competitive products for the year and transfer the amount from the Competitive Products Fund to the Postal Service Fund by the January 15th that follows the close of the fiscal year.

⁶ Public Representative Comments on Postal Service Notice Concerning Submission of FY 2017 Assumed Federal Income Tax on Competitive Products, February 1, 2018 (PR Comments).

⁷ Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3198 (2006).

The Commission's regulations require that the Postal Service develop a Competitive Products Income Statement for each fiscal year, as shown in Table 1 of 39 C.F.R. § 3060.21. Section 3060.40(a) of title 39 of the Code of Federal Regulations requires that the Postal Service use the Competitive Products Income Statement to calculate the assumed Federal income tax on competitive products income in compliance with chapter 1 of the Internal Revenue Code by computing tax liability at section 11 (regular) or section 55(b)(1)(B) (Alternative Minimum Tax) tax rates.⁸ The Postal Service is not required to calculate or pay estimated Federal income taxes or state, local, or foreign income taxes. 39 C.F.R. § 3060.40(d), (e).

The attachment to the Notice contains two tables. The first table uses the first eight lines of the Competitive Products Income Statement to calculate the FY 2017 competitive products net income before tax. Notice, Attachment. The second table calculates the assumed Federal income tax on competitive products income by multiplying taxable income by a 35-percent tax rate. *Id.* Multiplying a taxable income of \$5.454 billion by a 35-percent tax rate, the Postal Service calculates an assumed Federal income tax on competitive products income for FY 2017 of \$1.909 billion. *Id.*

The Commission approves of the calculation of the assumed Federal income tax on competitive products net income for FY 2017. The calculation contains the information required by 39 C.F.R. §§ 3060.40 and 3060.41. The Commission finds that the Postal Service accurately calculated its FY 2017 competitive products net income before tax and taxable income. In addition, the Commission finds that the 35-percent tax rate is the appropriate section 11 tax rate for the Postal Service's FY 2017 taxable competitive products income.⁹ Thus, in accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's FY 2017 calculation of the assumed Federal income tax on competitive products income.

⁸ Chapter 1 of title 26 prescribes, among other things, how the Federal income tax liability of corporations is calculated. The amount of Federal income tax imposed on corporations is specified in 26 U.S.C. § 11.

⁹ See 26 U.S.C. § 11; Internal Revenue Service Form 1120 (2018), Schedule J, Line 2 instructions (available at: <https://www.irs.gov/instructions/i1120/ch02.html#d0e2623>).

V. ORDERING PARAGRAPH

It is ordered:

In accordance with 39 C.F.R. § 3060.42, the Commission approves the Postal Service's FY 2017 calculation of the assumed Federal income tax on competitive products income.

By the Commission.

Stacy L. Ruble
Secretary